

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA**

In Re: JO-ANNE MARY MILNER, : CHAPTER 13
Debtor : BANKRUPTCY NO. 17-15918

**ORDER SUSTAINING DEBTOR'S OBJECTIONS TO PROOF OF CLAIM ("POC") No.
4-1 FILED BY NATIONSTAR MORTGAGE, LLC ("Nationstar")**

AND NOW, this day of June, 2018, it is hereby ORDERED as follows:

1. The Objections are SUSTAINED.
2. The Proof of Claim filed by Nationstar (No. 4-1) is DISALLOWED.

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In Re: JO-ANNE MARY MILNER, : CHAPTER 13
Debtor : BANKRUPTCY NO. 17-15918

**DEBTOR'S OBJECTIONS TO PROOF OF CLAIM ("POC") NO. 4-1 FILED BY
NATIONSTAR MORTGAGE, LLC ("Nationstar")**

The Debtor now comes and makes the following Objections ("the Objections") to the Proof of Claim (No. 4-1) ("the POC") filed in this case by Nationstar:

1. A copy of the first five pages of POC No. 4-1 is attached hereto.
2. The POC was filed on May 10, 2018, the bar date for claims in this case.
3. The Mortgage to which the POC relates is a reverse mortgage, which does not require that the elderly Debtor make payments to the mortgagee. The Debtor is obligated only to retain insurance on the mortgaged property and pay the real estate taxes due, all of which she believes that she has paid in full.
4. The POC recites a total claim of \$236,009.84 and an arrears amount of \$10,967.42.
5. In Part 3 of a Mortgage Proof of Claim Attachment referencing "Arrearage on the Date of the Petition," a "Non-Escrow Deficiency for Funds Advanced" in the amount of \$10,967.42 is listed. There is no further explanation of the alleged deficiency.
6. The following statement is made on in a "Disclosure Statement" appearing directly after the Mortgage Proof of Claim Attachment: "The fees and costs listed in listed in part 3 under Prepetition fees due have been capitalized as part of

the total debt in Part 2 and are not required to be paid to cure any pre-petition default.”

7. It therefore appears that the arrears set forth in the POC are a fee which should be capitalized as part of the total debt and are not required to be paid to cure a pre-petition default.

8. As such, it therefore appear that the amount allegedly due for a pre-petition default need not be paid to cure the alleged default, if any there be.

9. As a result, the Debtor avers that the amount claimed for pre-petition arrears can be and should be stricken from the claim.

WHEREFORE, the Debtor requests that this court will enter the

Proposed Order accompanying the Objections.

/s/DAVID A. SCHOLL
512 Hoffman Street
Philadelphia, PA. 19148
610-550-1765
Attorney for Debtor

Fill in this information to identify the case:

Debtor 1 Jo-Anne Mary Milner
 Debtor 2 _____
 (Spouse, if filing)
 United States Bankruptcy Court for the EASTERN District of PENNSYLVANIA
 Case number 17-15918-jkf

Official Form 410
Proof of Claim

04/16

Read the instructions before filling out this form. Use this form to make a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents: they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1.	What is the current creditor?	<u>NATIONSTAR MORTGAGE LLC D/B/A CHAMPION MORTGAGE COMPANY</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2.	Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3.	Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002 (g)	Where should notices to the creditor be sent? <u>Champion Mortgage Company</u> Name <u>8950 Cypress Waters Blvd.</u> Number Street <u>Coppell TX 75019</u> City State ZIP Code Contact phone <u>855-683-3095</u> Contact email _____ Uniform claim identifier for electronic payments in chapter 13 (if you use one) _____	Where should payments to the creditor be sent? (if different) <u>Champion Mortgage Company</u> Name <u>P.O. BOX 619093</u> Number Street <u>Dallas TX 75251</u> City State ZIP Code Contact phone _____ Contact email _____
4.	Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claim registry (if known) _____	Filed on _____ MM/DD/YYYY
5.	Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6.	Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>8929</u>
7.	How much is the claim?	\$ <u>236,009.84</u>	Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(a)
8.	What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>MONEY LOANED</u>	
9.	Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	The claim is secured by a lien on property. Nature of property: <u>1138 Bainbridge Street Unit #A, Philadelphia, PA 19147</u> <input checked="" type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this Proof of Claim. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: <u>Reverse Mortgage/Deed of Trust</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ <u>236,009.84</u> Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7) Amount necessary to cure any default as of the date of the petition: \$ <u>10,967.92</u> Annual Interest Rate (when case was filed): <u>2.2300%</u> <input type="checkbox"/> Fixed <input checked="" type="checkbox"/> Variable
10.	Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Amount necessary to cure any default as of the date of the petition. \$ _____
11.	Does this claim involve a right to setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Identify the property _____

12	Is all or part of the claim entitled to priority under 11 U.S.C. §507(a)? A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Check one:	Amount entitled to priority
	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).		\$ _____
	<input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease or rental of property or services for personal, family, or household use. 11 U.S.C. §507(a)(7).		\$ _____
	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. §507(a)(4).		\$ _____
	<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. §507(a)(8).		\$ _____
	<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. §507(a)(5).		\$ _____
	<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. §507(a)() that applies.		\$ _____

* Amount are subject to adjustment on 4/1/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box.

☐ I am the creditor.
☒ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3004.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 05/10/2018
MM/DD/YYYY

/s/ Kevin Buttery
Signature

Print the name of the person who is completing and signing this claim:

Kevin Buttery
 Authorized Agent for Secured Creditor
 Robertson, Anschutz & Schneid, P.L.
 6408 Congress Ave., Suite 100
 Boca Raton, FL 33487
 561-241-6901

Mortgage Proof of Claim Attachment

(04/16)

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.

Part 1: Mortgage and Case Information		Part 2: Total Debt Calculation		Part 3: Arrearage as of Date of the Petition		Part 4: Monthly Mortgage Payment	
Case Number	17-15918-jkf	Principal balance:	\$236,009.84	Principal & interest due:	\$0.00	Principal & interest:	N/A
Debtor 1:	Jo-Anne Mary Milner	Interest due:	\$0.00	Prepetition fees due:	(See Disclosure)	Monthly escrow:	N/A
Debtor 2:		Fees, costs due:	\$0.00	Non-Escrow deficiency for funds advanced:	\$10,967.92	Private mortgage insurance:	N/A
Last 4 digits to identify:	8929	Escrow deficiency for funds advanced:	\$0.00	Projected escrow shortage:	\$0.00	Other:	N/A
Creditor:	NATIONSTAR MORTGAGE LLC DBA CHAMPION MORTGAGE COMPANY	Less total funds on hand:	\$0.00	Less funds on hand:	\$0.00	Total monthly payment:	N/A
Service:	NATIONSTAR MORTGAGE LLC DBA CHAMPION MORTGAGE COMPANY	MIP:	\$0.00	Total prepetition arrearage:	\$10,967.92		
Fixed accrual/daily simple interest/other:	REVERSE MORTGAGE	Total debt:	\$236,009.84				

Part 5: Loan payment History from First Date of Default

Account Activity				How Funds Were Applied/Amount Incurred					Balance After Amount Received or Incurred							
A. Transaction Date	B. Contractual payment amount	C. Funds received	D. Amount loaned	E. Description	F. Contractual due date/invoice date	G. Prin. int. & esc. paid due balance	H. Amount to principal	I. Amount to interest	J. Amount to non-escrow fees or charges	K. Amount to fees or charges	L. Unapplied funds	M. Principal balance including capitalized items	N. Accrued interest balance	O. Non-escrow balance	P. Fees / charges balance capitalized	Q. Fees / charges balance capitalized
3/25/2011			\$187.87	PiaTrans LOC Applied						\$187.87		PiaTrans		\$187.87		\$0.00
4/29/2011			\$2.00	PiaTrans LOC Applied						\$2.00		PiaTrans		\$189.87		\$0.00
8/12/2014			\$589.98	PiaTrans 2013 Taxes-Philadelphia City						\$589.98		PiaTrans		\$1,268.85		\$0.00
3/16/2015			\$1272.00	PiaTrans Credit Adjustment						\$1272.00		PiaTrans		\$2,540.85		\$0.00
5/16/2015			\$15,000	PiaTrans Credit Adjustment						\$15,000		PiaTrans		\$4,040.85		\$0.00
5/16/2015			\$7,885.27	PiaTrans 2013 2014 2015 2016 Taxes-Philadelphia City						\$7,885.27		PiaTrans		\$8,766.12		\$0.00
7/25/2015			\$1,881.00	PiaTrans Force Place Insurance-05/02/2015 - 05/02/2017						\$1,881.00		PiaTrans		\$10,458.12		\$0.00
5/12/2017			\$1,523.00	PiaTrans Force Place Insurance-05/02/2017 - 05/02/2018						\$1,523.00		PiaTrans		\$11,981.12		\$0.00
8/31/2017			\$0.00	Month End total UPE	8/31/2017					\$0.00		PiaTrans		\$11,981.12		\$0.00
10/2/2017			\$1,014.00	Force Place Insurance Refund	10/2/2017					\$1,014.00		PiaTrans		\$10,967.12		\$0.00

Disclosure Statement:

Principal balance listed in Part 2 includes interest, fees, expenses, and charges that have been capitalized under the terms of the loan documents as this is a reverse mortgage.

Please be advised that we may supplement this Claim to include additional documentation to evidence this debt.

Under the terms of the reinstatement paragraph found in the mortgage, borrower has a right to reinstate the security instrument by correcting the condition which resulted in the requirement for immediate payment in full. The fees and costs listed in part 3 under Prepetition fees due have been capitalized as part of the total debt in Part 2 and are not required to be paid to cure any pre-petition default.

Creditor, services the Debt Agreement on the property. In the event the automatic stay is modified, this case dismisses and/or the Debtor receives a discharge and a foreclosure action is commenced on the property, the foreclosure will be conducted in the name of Creditor.

Creditor, directly or through an agent, has possession of the Debt Agreement and held the Debt Agreement at the time of filing the Proof of Claim. The Debt Agreement is made payable to Creditor OR the Debt Agreement has been duly indorsed.